

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAVID J. CARPENTER,
Petitioner,

v.

ROBERT L. AYERS, Jr., Acting Warden
of California State Prison at San Quentin,
Respondent.

NO. C 98-2444 MMC
C-00-3706 MMC

PROTECTIVE ORDER

DEATH PENALTY CASES

On the authority of Rule 26(c)(1) of the Federal Rules of Civil Procedure, and *Bittaker v. Woodford*, 331 F.3d 715, 726-28 (9th Cir. 2003) (*en banc*),

IT IS ORDERED:

(1) The evaluation and report to the Court provided for in the Order of July 18, 2008, shall be limited to Mr. Carpenter's current competency in light of the standards set forth in paragraph 11 of that Order. Claims in Mr. Carpenter's habeas corpus petitions other than his claim of current incompetency shall not be addressed in the evaluation and report. His competency or mental status at the time of the charged offenses, his trials, or the prior offenses offered in aggravation, or at any other time, shall not be addressed.

(2) The results of the evaluation and any information obtained by the evaluator, the Court or the parties in connection with the evaluation may be used to support or rebut claims contained within Mr. Carpenter's currently pending federal habeas petitions. The results and the information may not be used for any other purposes, including any possible retrial.

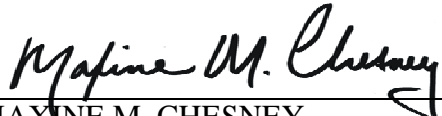
(3) Information obtained during the competency evaluation from Mr. Carpenter or his counsel may be used to support or rebut claims contained within Mr. Carpenter's currently pending federal habeas petitions. The information may not be used for any other purposes, including any possible retrial.

(4) Statements made by Mr. Carpenter in the course of the competency evaluation and testimony by the evaluator based upon any such statements may be used to support or rebut claims contained within Mr. Carpenter's currently pending federal habeas petitions. The statements and testimony may not be used for any other purposes, including any possible retrial.

(5) This Order shall continue in effect after the conclusion of the habeas corpus proceedings and specifically shall apply in the event of a retrial of all or any portion of Mr. Carpenter's criminal cases.

IT IS SO ORDERED.

DATED: August 21, 2008


MAXINE M. CHESNEY
UNITED STATES DISTRICT JUDGE